

112TH CONGRESS
1ST SESSION

H. R. 3397

To modify the Forest Service Recreation Residence Program by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2011

Mr. HASTINGS of Washington (for himself and Mr. SIMPSON) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To modify the Forest Service Recreation Residence Program by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Cabin Fee Act of 2011”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Cabin user fees.

Sec. 4. Cabin transfer fees.
 Sec. 5. Right of appeal and judicial review.
 Sec. 6. Consistency with other law and rights.
 Sec. 7. Regulations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) AUTHORIZATION; AUTHORIZE.—The terms
 4 “authorization” and “authorize” mean the issuance
 5 of a special use permit for the use and occupancy of
 6 National Forest System land by a cabin owner under
 7 the Recreation Residence Program.

8 (2) CABIN.—The term “cabin” means a pri-
 9 vately built and owned recreation residence and re-
 10 lated improvements on National Forest System land
 11 that—

12 (A) is authorized for private use and occu-
 13 pancy; and

14 (B) may be sold or transferred between
 15 private parties.

16 (3) CABIN OWNER.—The term “cabin owner”
 17 means—

18 (A) a person authorized by the Secretary
 19 to use and to occupy a cabin; and

20 (B) a trust, heir, or assign of a person de-
 21 scribed in subparagraph (A).

22 (4) CABIN TRANSFER FEE.—The term “cabin
 23 transfer fee” means a fee that is paid to the United

1 States on the transfer of a cabin between private
2 parties for money or other consideration that results
3 in the issuance of a new permit.

4 (5) CABIN USER FEE.—The term “cabin user
5 fee” means an annual fee paid to the United States
6 by a cabin owner in accordance with an authoriza-
7 tion for the use and occupancy of a cabin.

8 (6) CURRENT APPRAISAL CYCLE.—The term
9 “current appraisal cycle” means the completion of
10 Forest Service review and acceptance of—

11 (A) initial typical lot appraisals; or

12 (B) second appraisals, if ordered by cabin
13 owners and approved by the Forest Service.

14 (7) CURRENT CABIN USER FEE.—The term
15 “current cabin user fee” means the most recent
16 cabin user fee, as adjusted under section 3(c).

17 (8) LOT.—The term “lot” means a parcel of
18 National Forest System land on which a person is
19 authorized to build, use, occupy, and maintain a
20 cabin.

21 (9) NATIONAL FOREST SYSTEM.—The term
22 “National Forest System” has the meaning given
23 that term in section 11 of the Forest and Rangeland
24 Renewable Resources Planning Act of 1974 (16
25 U.S.C. 1609).

1 (10) RECREATION RESIDENCE PROGRAM.—The
2 term “Recreation Residence Program” means the
3 Recreation Residence Program established under the
4 last paragraph under the heading “FOREST SERV-
5 ICE” in the Act of March 4, 1915 (16 U.S.C. 497).

6 (11) SECRETARY.—The term “Secretary”
7 means the Secretary of Agriculture, acting through
8 the Chief of the Forest Service.

9 (12) TYPICAL LOT.—The term “typical lot”
10 means a cabin lot, or group of cabin lots, in a tract
11 that is selected for use in an appraisal as being rep-
12 resentative of, and that has similar value character-
13 istics as, other lots or groups of lots within the tract.

14 **SEC. 3. CABIN USER FEES.**

15 (a) PAYMENT OF CABIN USER FEES.—Cabin owners
16 shall pay an annual cabin user fee established by the Sec-
17 retary in accordance with this section.

18 (b) INITIAL CABIN USER FEES.—

19 (1) ESTABLISHMENT.—The Secretary shall es-
20 tablish initial cabin user fees in accordance with this
21 subsection.

22 (2) ASSIGNMENT TO VALUE TIERS.—On com-
23 pletion of the current appraisal cycle, as required by
24 paragraph (4), the Secretary shall assign each per-

1 mitted lot on National Forest System land to 1 of
2 9 tiers based on the following considerations:

3 (A) Before assigning the lots to tiers, all
4 appraised lot values shall be adjusted, or nor-
5 malized, for price changes occurring after the
6 appraisal, in accordance with the National As-
7 sociation of Homebuilders/Wells Fargo Housing
8 Opportunity Index.

9 (B) Second appraisal values that meet
10 Forest Service standards for approval shall su-
11 persede initial lot appraisal values for the nor-
12 malization and ranking process under subpara-
13 graph (A).

14 (C) The tiers shall be established, on a na-
15 tional basis, according to relative lot value, with
16 lots having the lowest adjusted appraised value
17 assigned to tier 1 and lots having the highest
18 adjusted appraised value assigned to tier 9.

19 (D) The number of lots (by percentage) as-
20 signed to each tier is contained in the table set
21 forth in paragraph (3).

22 (E) Data from incomplete appraisals may
23 not be used to establish the fee tiers under this
24 subsection.

(F) Until assigned to a tier under this paragraph, the Secretary shall assess (and may adjust annually subject to clause (ii)) an interim fee for permitted cabin lots (including lots with incomplete appraisals) in an amount equal to the lesser of—

(i) \$4,500; or

(ii) the amount of the current cabin user fee, as determined under the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6201 et seq.), which amount the Secretary may increase annually by not more than 25 percent, except that the increased fee shall not exceed the otherwise scheduled fee determined under the Cabin User Fee Fairness Act of 2000.

(3) AMOUNT OF INITIAL CABIN USER FEES.—

The initial cabin user fees, based on the assignments under paragraph (2), are as follows:

Fee Tier	Approximate Percent of Permits Nationally	Fee Amount
Tier 1	8 percent	\$500
Tier 2	16 percent	\$1,000
Tier 3	20 percent	\$1,500
Tier 4	20 percent	\$2,000
Tier 5	12 percent	\$2,500

Fee Tier	Approximate Percent of Permits Nationally	Fee Amount
Tier 6	8 percent	\$3,000
Tier 7	6 percent	\$3,500
Tier 8	6 percent	\$4,000
Tier 9	4 percent	\$4,500

1 (4) DEADLINE FOR COMPLETION OF CURRENT
2 APPRAISAL CYCLE.—Not later than 3 years after the
3 date of enactment of this Act, the Secretary shall
4 complete the current appraisal cycle.

5 (5) EFFECTIVE DATE.—The initial cabin user
6 fees required by this subsection shall take effect be-
7 ginning with the first calendar year beginning after
8 the completion of the current appraisal cycle.

9 (c) ANNUAL ADJUSTMENTS OF CABIN USER FEE.—
10 Once initial cabin user fees have been assessed, based on
11 the tier assignments under subsection (b)(2), the Sec-
12 retary shall use changes in the Implicit Price Deflator for
13 the Gross Domestic Product published by the Bureau of
14 Economic Analysis of the Department of Commerce, ap-
15 plied on a 5-year rolling average, to assess an annual ad-
16 justment to cabin user fees.

17 (d) EFFECT OF DESTRUCTION, SUBSTANTIAL DAM-
18 AGE, OR LOSS OF ACCESS.—

19 (1) IN GENERAL.—The Secretary shall reduce
20 the cabin user fee to \$100 per year for a cabin if—

1 (A) the cabin is destroyed or suffers sub-
2 stantial damage in an amount that is greater
3 than 50 percent of replacement cost of the
4 cabin; or

5 (B) access to the cabin is significantly im-
6 paired, whether by catastrophic events, natural
7 causes, or governmental actions, which results
8 in the cabin being rendered unsafe or unable to
9 be occupied.

10 (2) TERM OF REDUCED FEE.—The reduced fee
11 under paragraph (1) shall be in effect until the later
12 of—

13 (A) the last day of the year in which the
14 destruction or impairment occurs; or

15 (B) the date on which the cabin may be
16 lawfully reoccupied and normal access has been
17 restored.

18 **SEC. 4. CABIN TRANSFER FEES.**

19 (a) PAYMENT OF CABIN TRANSFER FEES.—In con-
20 junction with the transfer of ownership of any cabin and
21 the issuance of a new permit, the cabin owner transferring
22 the cabin shall file with the Secretary a sworn statement
23 declaring the amount of money or other value received,
24 if any, for the transfer of the cabin.

(b) AMOUNT.—As a condition of the issuance by the Secretary of a new authorization for the use and occupancy of the cabin, the cabin owner transferring the cabin shall pay to the Secretary a cabin transfer fee in an amount determined as follows:

Consideration Received by Transfer	Transfer Fee Amount
\$0 to \$250,000	\$1,000
\$250,000.01 to \$500,000.00	\$1,000 plus 5 percent of consideration in excess of \$250,000 up to \$500,000
\$500,000.01 and above	\$1,000 plus 5 percent of consideration in excess of \$250,000 up to \$500,000 plus 10 percent of consideration in excess of \$500,000.

(c) INDEX.—The Secretary shall use changes in the Implicit Price Deflator for the Gross Domestic Product published by the Bureau of Economic Analysis of the Department of Commerce, applied on a 5-year rolling average, to determine and apply an annual adjustment to the cabin transfer fee threshold amounts set forth in the table contained in subsection (b).

SEC. 5. RIGHT OF APPEAL AND JUDICIAL REVIEW.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—Notwithstanding any action of a cabin owner to exercise rights in accordance with section 6, the Secretary shall by regulation grant to the cabin owner the right to an administrative appeal of the determination of a new cabin user

1 fee, fee tier, cabin transfer fee, or whether or not to
2 reduce a cabin user fee under section 3(d).

3 (2) APPLICABLE LAW.—An appeal under para-
4 graph (1) shall be pursuant to the appeal process
5 provided under subpart C of part 251 of title 36,
6 Code of Federal Regulations (or a successor regula-
7 tion).

8 (b) JUDICIAL REVIEW.—

9 (1) IN GENERAL.—A cabin owner that contests
10 a final decision of the Secretary under this Act may
11 bring a civil action in United States district court.

12 (2) VENUE.—The venue for an action brought
13 before the United States district court under this
14 subsection shall be in the Federal judicial district in
15 which the cabin is located or the permit holder re-
16 sides.

17 (3) EFFECT ON MEDIATION.—Nothing in this
18 Act precludes a person from seeking mediation for
19 an action under this Act.

20 **SEC. 6. EFFECT.**

21 (a) IN GENERAL.—Nothing in this Act limits or re-
22 stricts any right, title, or interest of the United States in
23 or to any land or resource.

24 (b) SPECIAL RULE FOR ALASKA.—In determining a
25 cabin user fee in the State of Alaska, the Secretary shall

1 not establish or impose a cabin user fee or a condition
2 affecting a cabin user fee that is inconsistent with 1303(d)
3 of the Alaska National Interest Lands Conservation Act
4 (16 U.S.C. 3193(d)).

5 **SEC. 7. REGULATIONS.**

6 Not later than December 31, 2012, the Secretary
7 shall issue regulations to carry out this Act.

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